

## **Chapter 2**

### **Property Rights**

#### **30-2-2 Wife's right to contract, sue and be sued.**

Contracts may be made by a wife, and liabilities incurred and enforced by or against her, to the same extent and in the same manner as if she were unmarried.

No Change Since 1953

#### **30-2-3 Conveyances between husband and wife.**

A conveyance, transfer or lien executed by either husband or wife to or in favor of the other shall be valid to the same extent as between other persons.

No Change Since 1953

#### **30-2-4 Wife's right to wages -- Actions for personal injury.**

A wife may receive the wages for her personal labor, maintain an action therefor in her own name and hold the same in her own right, and may prosecute and defend all actions for the preservation and protection of her rights and property as if unmarried. There shall be no right of recovery by the husband on account of personal injury or wrong to his wife, or for expenses connected therewith, but the wife may recover against a third person for such injury or wrong as if unmarried, and such recovery shall include expenses of medical treatment and other expenses paid or assumed by the husband.

No Change Since 1953

#### **30-2-5 Separate debts.**

- (1) Neither spouse is personally liable for the separate debts, obligations, or liabilities of the other:
  - (a) contracted or incurred before marriage;
  - (b) contracted or incurred during marriage, except family expenses as provided in Section 30-2-9;
  - (c) contracted or incurred after divorce or an order for separate maintenance under this title, except the spouse is personally liable for that portion of the expenses incurred on behalf of a minor child for reasonable and necessary medical and dental expenses, and other similar necessities as provided in a court order under Section 30-3-5, 30-4-3, or 78B-12-212, or an administrative order under Section 62A-11-326; or
  - (d) ordered by the court to be paid by the other spouse under Section 30-3-5 or 30-4-3 and not in conflict with Section 15-4-6.5 or 15-4-6.7.
- (2) The wages, earnings, property, rents, or other income of one spouse may not be reached by a creditor of the other spouse to satisfy a debt, obligation, or liability of the other spouse, as described under Subsection (1).

Amended by Chapter 3, 2008 General Session

#### **30-2-6 Actions based on property rights.**

Should the husband or wife obtain possession or control of property belonging to the other before or after marriage, the owner of the property may maintain an action therefor, or for any right growing out of the same, in the same manner and to the same extent as if they were unmarried.

No Change Since 1953

**30-2-7 Husband's liability for wife's torts.**

For civil injuries committed by a married woman damages may be recovered from her alone, and her husband may not be held liable for those civil injuries, except in cases where he would be jointly liable with her if the marriage did not exist.

Amended by Chapter 297, 2011 General Session

**30-2-8 Agency between husband and wife.**

A husband or wife may constitute the other his or her attorney in fact to control and dispose of his or her property for their mutual benefit or otherwise, and may revoke the appointment the same as other persons.

No Change Since 1953

**30-2-9 Family expenses -- Joint and several liability.**

- (1) The expenses of the family and the education of the children are chargeable upon the property of both spouses or of either of them separately, for which expenses they may be sued jointly or separately.
- (2) For the expenses described in Subsection (1), where there is a written agreement signed by either spouse that allows for the recovery of agreed upon amounts, a creditor or an assignee or successor in interest of the creditor is entitled to recover the contractually allowed amounts against both spouses, jointly and severally.
- (3) Subsection (2) applies to all contracts and agreements under this section entered into by either spouse during the time the parties are married and living together.
- (4) For the purposes of this section, family expenses are considered expenses incurred that benefit and promote the family unit. Items purchased pursuant to a written contract or agreement during the marriage that do not relate to family expenses are not covered by this section.
- (5) The provisions of Subsections (2) and (3) do not create a right to attorney's fees or collection fees as to the nonsigning spouse for purchases of:
  - (a) food or clothing; or
  - (b) home improvements or repairs over \$5,000.

Amended by Chapter 457, 2015 General Session

**30-2-10 Homestead rights -- Custody of children.**

Neither the husband nor wife can remove the other or their children from the homestead without the consent of the other, unless the owner of the property shall in good faith provide another homestead suitable to the condition in life of the family; and if a husband or wife abandons his or her spouse, that spouse is entitled to the custody of the minor children, unless a court of competent jurisdiction shall otherwise direct.

Amended by Chapter 122, 1977 General Session

**30-2-11 Action for consortium due to personal injury.**

- (1) For purposes of this section:

- (a) "injury" or "injured" means a significant permanent injury to a person that substantially changes that person's lifestyle and includes the following:
  - (i) a partial or complete paralysis of one or more of the extremities;
  - (ii) significant disfigurement; or
  - (iii) incapability of the person of performing the types of jobs the person performed before the injury; and
- (b) "spouse" means the legal relationship:
  - (i) established between a man and a woman as recognized by the laws of this state; and
  - (ii) existing at the time of the person's injury.
- (2) The spouse of a person injured by a third party on or after May 4, 1997, may maintain an action against the third party to recover for loss of consortium.
- (3) A claim for loss of consortium begins on the date of injury to the spouse. The statute of limitations applicable to the injured person shall also apply to the spouse's claim of loss of consortium.
- (4) A claim for the spouse's loss of consortium shall be:
  - (a) made at the time the claim of the injured person is made and joinder of actions shall be compulsory; and
  - (b) subject to the same defenses, limitations, immunities, and provisions applicable to the claims of the injured person.
- (5) The spouse's action for loss of consortium:
  - (a) shall be derivative from the cause of action existing in behalf of the injured person; and
  - (b) may not exist in cases where the injured person would not have a cause of action.
- (6) Fault of the spouse of the injured person, as well as fault of the injured person, shall be compared with the fault of all other parties, pursuant to Sections 78B-5-817 through 78B-5-823, for purposes of reducing or barring any recovery by the spouse for loss of consortium.
- (7) Damages awarded for loss of consortium, when combined with any award to the injured person for general damages, may not exceed any applicable statutory limit on noneconomic damages, including Section 78B-3-410.
- (8) Damages awarded for loss of consortium which a governmental entity is required to pay, when combined with any award to the injured person which a governmental entity is required to pay, may not exceed the liability limit for one person in any one occurrence under Title 63G, Chapter 7, Governmental Immunity Act of Utah.

Amended by Chapter 3, 2008 General Session

Amended by Chapter 382, 2008 General Session